REMARKS

Reconsideration and withdrawal of the rejections of the present application are respectfully requested in view of the amendments to the claims and remarks presented herewith, which place the application into condition for allowance.

Status of the Claims and Formal Matters

Claims 1 and 3-10 are currently pending in this application. By this paper, Claim 1 has been amended, without prejudice. No new matter has been introduced by this amendment. Support for the amended recitations can be found throughout the specification.

The amendments as presented herein are not made for the purposes of patentability within the meaning of §§§§101, 102, 103, and 112. Rather, these amendments are made for purposes of clarity, to place the application into condition for allowance, and to round out the scope of protection to which Applicants are entitled.

This paper is submitted with a Request for Continued Examination under 37 C.F.R. §1.114, which now requires the Examiner to enter the amendments presented herein and in the response to the final Office Action of August 18, 2005.

Rejections under 35 U.S.C. §103(a)

Claims 1 and 3-10 were rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Hoffman et al (U.S. Patent No. 5,538,736). Hoffman allegedly teaches an active substance-containing plaster for the release of active substances comprising two different adhesives, each with distinct flowable adhesion properties, wherein the active substance-containing plaster can also contain further additives, such as plasticizers. Hoffman does not teach that the layer of adhesive is rendered "flowable by the addition of a plasticizer". However, the Office Action contends that it would have been obvious to the skilled artisan to include various suitable additives, particularly plasticizers, because they may serve to affect the bonding of flow properties of adhesion.

The amendments to the claims presented herewith now recite "a flat self-adhering plaster having a multi-layer construction and reduced cold flow, **consisting of** a layer of adhesive..." The provisions of Hoffman require a first and a second active substance reservoir. Therefore, it is respectfully submitted that Hoffman cannot be relied upon under §103(a). Reconsideration

and withdrawal of the rejection under §103(a) in view of Hoffman is therefore, respectfully requested.

Claims 1 and 3-10 were rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Mori (U.S. Patent No. 5,695,779). Mori allegedly teaches a controlled-release transdermal therapeutic system comprising a rubbery adhesive, microcapsules comprising a water-soluble wall material and encapsulating drugs as a core material, in addition to a water-insoluble rubber- and rubber solvent-insoluble, water absorbing resin powder, the microcapsules and the resin powder being dispersed in the rubbery adhesive. The rubbery adhesive as taught by Mori allegedly comprises a rubber adhesive component, a tackifier component, and a plasticizer component. Consequently, the Examiner contends that Mori, considered as a whole, would have been *prima facie* obvious to the skilled artisan.
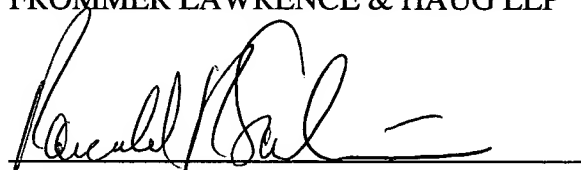
The amendments to the claims presented herewith recite "a flat self-adhering plaster having a multi-layer construction and reduced cold flow, **consisting of** a layer of adhesive…", thereby obviating the rejection. Mori requires microcapsules that encapsulate drugs as core material, as well as a water-insoluble, rubber- and rubber solvent-insoluble water absorbing resin powder that is dispersed in the adhesive. Consequently, in view of the foregoing, reconsideration and withdrawal of the §103(a) rejection is respectfully requested.

CONCLUSION

By this Amendment, this application is believed to be in condition for allowance. Favorable reconsideration of the application, withdrawal of the rejections, and prompt issuance of the Notice of Allowance are, therefore, all earnestly solicited.

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